

APPEAL NO. 020681  
FILED MAY 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 21, 2002. The hearing officer resolved the disputed issues by deciding that the first certification of maximum medical improvement (MMI) and impairment rating (IR) by Dr. M did not become final under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE Sec. 130.5(e) (Rule 130.5(e)), and that the respondent (claimant) had disability from February 12, 2000, through the date of the CCH. The appellant (carrier) appealed the disability determination and the claimant responded. There is no appeal of the determination that the first certification of MMI and IR did not become final.

DECISION

The hearing officer's decision is affirmed.

It is undisputed that the claimant sustained a compensable injury. Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that he has had disability. The parties presented conflicting evidence on the disability issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision on the appealed disability issue is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

---

Robert W. Potts  
Appeals Judge

CONCUR:

---

Thomas A. Knapp  
Appeals Judge

---

Roy L. Warren  
Appeals Judge